§ 17.105

the debtor seeks review and must be received by the Secretary within 20 calendar days of the date of the Department's Notice of Intent.

(b) Secretary's response. In response to a timely request for review of the initial determination of indebtedness, the Secretary will notify the debtor whether review will be by review of the record or by hearing. The notice to the debtor will include the procedures used for reviewing the record or will include information on the date, location and procedures to be used if review is by a hearing.

§17.105 Review of departmental records related to the debt.

(a) Notification by debtor. A debtor who intends to inspect or copy Departmental records related to the debt as determined by the Secretary must send a letter to the Secretary stating his or her intention. The letter must be received by the Secretary within 20 calendar days of the date of the Department's Notice of Intent.

(b) Secretary's response. In response to timely notification by the debtor as described in paragraph (a) of this section, the Secretary will notify the debtor of the location and time when the debtor may inspect or copy Department records related to the debt.

§ 17.106 Written agreement to repay debt as alternative to administrative offset.

(a) Notification by debtor. The debtor may, in response to a Notice of Intent, propose a written agreement to repay the debt as an alternative to administrative offset. Any debtor who wishes to do this must submit a proposed written agreement to repay the debt. This proposed written agreement must be received by the Secretary within 20 calendar days of the date of the Department's Notice of Intent.

(b) Secretary's response. In response to timely notification by the debtor as described in paragraph (a) of this section, the Secretary will notify the debtor whether the debtor's proposed written agreement for repayment is acceptable. It is within the Secretary's discretion to accept a repayment agreement instead of proceeding by offset. In making this determination the Secretary

will balance the Department's interest in collecting the debt against hardship to the debtor. If the debt is delinquent and the debtor has not disputed its existence or amount, the Secretary will accept a repayment agreement instead of offset only if the debtor is able to establish that offset would result in undue financial hardship or would be against equity and good conscience.

§17.107 Stay of offset.

If the debtor timely notifies the Secretary that he or she is exercising a right described in §17.104 or §17.106, the offset will be stayed until the Secretary either makes a determination concerning the debtor's proposal to repay the debt or issues a written decision following review of the record or, where appropriate, a hearing. However, interest continues to run during any stay.

§17.108 Types of review.

- (a) *Hearing*. The Secretary will provide the debtor with a reasonable opportunity for hearing if:
- (1) An applicable statute authorizes or requires the Secretary to consider waiver of the indebtedness and the waiver determination turns on credibility or veracity; or
- (2) The debtor requests reconsideration of the debt and the Secretary determines that the question of the indebtedness cannot be resolved by review of the documentary evidence.
- (b) Review of the record. Unless the Secretary determines that a hearing is required (see paragraph (a) of this section), the Secretary will provide for a review of the record (a review of the documentary evidence).

§17.109 Review procedures.

- (a) Hearings. (1) The appropriate Deputy Assistant Secretary (DAS) or designee conducts the hearing. The DAS or designee will take steps necessary to ensure that the hearing is conducted in a fair and expeditious manner. If necessary, the DAS or designee may administer oaths of affirmations.
- (2) The DAS or designee does not use the formal rules of evidence with regard to admissibility of evidence or the